

# **EXHIBIT D**

# **FILED UNDER SEAL**

UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
LOS ANGELES DIVISION

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In re: )  
SCOOBEEZ, et al. )  
Debtors and Debtors ) Case Nos.  
in Possesion. ) 2:19-bk-14991-WB  
vs. ) 2:19-bk-14997-WB  
-----)

VIDEOTAPED DEPOSITION OF JAMES WILSON  
TAKEN BY A CERTIFIED COURT REPORTER  
LAS VEGAS, NEVADA  
TUESDAY, JANUARY 28, 2020  
at 10:09 a.m.

Reported By: LISA MAKOWSKI, CCR 345, CA CSR 13400  
JOB NO: 3955993  
PAGES 1 - 333

1 BY MS. NASSIRI:

2 Q. Okay. And are you part of the North  
3 America DSP team now?

4	A. Yes.
---	---------

5 Q. So in -- for the recruiting of 2.0s, you  
6 said owners with leadership -- that can show  
7 leadership.

8           A.    I said -- I said hire and develop  
9   ownership and bias for action.

10	Q. Okay.
----	----------

11           A.     And also grit.

Row	Category	Value (approx. %)
1	Category 1	100
2	Category 2	100
3	Category 3	100
4	Category 4	100
5	Category 5	100
6	Category 6	100
7	Category 7	100
8	Category 8	100
9	Category 9	100
10	Category 10	100
11	Category 11	100
12	Category 12	100
13	Category 13	100
14	Category 14	100
15	Category 15	100

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BY MS. NASSIRI:

14

Q. Ballpark. Okay.

15

16

We talked about the qualifications for a  
DSP under the 2.0 system.

17

18

19

What kind of due diligence is done on a  
potential DSP to determine whether they have these  
qualities that Amazon Logistics is looking for?

20

MS. FITZPATRICK: Objection, form.

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25

THE WITNESS: So for a -- a 2.0, when  
we're creating a 2.0, they'll -- the partner will  
go through a background check, a credit check, and  
then they'll go through a process where they're  
essentially interviewed at multiple stages. So

1 station is -- is what Amazon is -- is targeting now  
2 as opposed to a larger DSP?

3 MS. FITZPATRICK: Objection, misstates  
4 testimony.

5 THE WITNESS: I mean, I -- I can give --  
6 I mean, I -- I think it's similar to -- to what I  
7 just said. I think an owner-operator in the  
8 station can -- can better manage those metrics and  
9 have a -- really what I would describe as a -- a --  
10 a better connection with drivers that help drive  
11 those metrics.

12 BY MS. NASSIRI:

13 Q. Is the idea that a 2.0 owner-operator  
14 who's on the ground at the station will only  
15 operate out of one station?

16 A. For -- for new owners onboarded?

17 Q. Yes.

18 A. Yes. That is -- we're very clear on that  
19 on the Logistics@amazon.com site, the expectation  
20 of operating one station.

21 Q. Are there any 2.0s that operate out of  
22 more than one station currently?

23 A. There are migrated 2.0s --

24 Q. Okay.

25 A. -- that operate at multiple stations.

1 Q. So tell me a little bit about that.

2 How -- if -- if you were a 1.0 -- well, strike  
3 that.

4 So you just said that while new 2.0s, the  
5 idea is they operate out of one station, some of  
6 the migrated 2.0s who were at one time 1.0s may  
7 operate out of more than one station.

8 Do you know how many stations those 1.0s  
9 migrated to 2.0s are operating out of? What's the  
10 maximum number?

11 A. I believe ballpark 12 to 13.

12 Q. Okay. And so -- and I assume that the  
13 2.0 DSP has a -- an agreement or a actual contract  
14 that looks different than a 1.0 agreement; is that  
15 correct?

16 A. Yes.

17 Q. So how -- do changes have to be made to  
18 the 2.0 agreement by the fact that it's a migrated  
19 1.0?

20 MS. FITZPATRICK: Objection, form.

21 BY MS. NASSIRI:

22 Q. If they work out of 12 to 13 stations,  
23 how -- how would they satisfy the requirements of a  
24 2.0?

25 MS. FITZPATRICK: Objection, form.

1 THE WITNESS: I'm not sure -- can --  
2 can -- I'm not sure what -- what you're asking me  
3 there.

4 BY MS. NASSIRI:

5 Q. Yeah. So -- so we talked about the  
6 qualities of a 2.0.

7           How does that work for a migrated 2.0?

8    If they have more than one station and presumably

9    more drivers and more routes, how -- how -- how is

10   that -- how does that manifest itself --

11 MS. FITZPATRICK: Objection.

12 BY MS. NASSIRI:

13 Q. -- in the Amazon system?

14           A.   How -- how does -- how does what manifest  
15   itself?

[illegible]

25 Q. Okay. Okay. So the difference really is



1 just the number of stations they're operating out  
2 of.

3 A. I -- I think that's fair to say that's  
4 one difference.

5 Q. Okay. Are the owners required to do  
6 something different because they can't be in more  
7 than one place at one time? So how do they -- are  
8 they required to physically be at the stations  
9 certain hours of the day or per week, or are there  
10 any of those types of requirements put on the  
11 owners of a migrated 2.0?

12 A. There's -- there's no requirement for the  
13 amount of time, as an example, that they have to be  
14 present in the station in the 2.0 agreement for --  
15 for any 2.0.

16 Q. Okay. But is there an expectation in the  
17 2.0 agreement that the owner-operator is boots on  
18 the ground at the station?

19 A. In -- in the actual 2.0 agreement, I --  
20 my understanding is there's no requirement that you  
21 have boots on ground --

22 Q. Okay.

23 A. -- in the actual legal agreement.

■

■

■

■

■

■

[illegible]

[illegible]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9 Q. Okay. For the 1.0s that did not migrate  
10 to the 2.0 structure and those were terminated --  
11 we talked about some of those were terminated, was  
12 it because they didn't meet the 2.0 criteria, the  
13 structure?

14 MS. FITZPATRICK: Objection; vague, calls  
15 for speculation, incomplete hypothetical.

16 THE WITNESS: There -- there's multiple  
17 reasons we could decide to terminate a agreement.  
18 I don't think there's any one specific reason.

19 BY MS. NASSIRI:

20 Q. Okay. For the 1.0s, the 30 or so 1.0s  
21 that are currently in the system, is the idea that  
22 they -- all of them be phased out ultimately to be  
23 terminated?

24 A. I think it's fair to say that just  
25 logistically having multiple contracts is just an

1 Q. Okay. So of the 30 current 1.0s that are  
2 in the system, approximately, do you know how many  
3 of them have been turned down to transition to a  
4 2.0 that -- that had asked to be?

5 MS. FITZPATRICK: You're -- you're asking  
6 of the 30 that remain, how many asked and were  
7 rejected?

8 MS. NASSIRI: Correct.

9 THE WITNESS: How -- how many -- so  
10 just -- just to clarify, this would be a population  
11 that originally declined initially because anyone  
12 that originally said yes, we would have migrated  
13 after June of 2018.

14 BY MS. NASSIRI:

15 Q. Okay. And so then there was a group that  
16 either -- that declined or could there have been a  
17 group that said nothing, that didn't respond?

18 A. I -- I guess -- I guess in theory  
19 potentially.

20 Q. Okay.

21 A. I -- I -- I -- I think it's fair to say  
22 that since January 2019, we haven't migrated a  
23 single DSP from 1.0 to 2.0.

24 Q. Okay.

25 A. And anyone that -- that requested was

1 denied.

2 Q. Why is that?

3 A. I -- I would say basically that in the --  
4 in the past, the rubric that was used to determine  
5 whether a DSP was migrated needed to be reviewed.  
6 And we're still kind of developing that framework  
7 to determine -- to make sure we're making smart  
8 decisions.

9 Q. So okay. You're saying that that rubric  
10 may not have been fully developed initially when  
11 1.0s requested to be migrated to the 2.0 program?

12 A. Well, the original wasn't a -- it was we  
13 asked DSPs; right?

14 Q. Right.

15 A. So -- so yes. Like, basically I think it  
16 was a come one, come all. And as we've evolved,  
17 we've kind of changed our view to maybe we should  
18 build a better framework.

19 Q. Okay. Who -- who -- who makes those  
20 decisions about what that framework should look  
21 like in terms of being able to migrate from 1.0 to  
22 2.0?

23 A. I don't -- I don't know if there's any  
24 single person. That recommendation would be driven  
25 through -- through me and my -- my team.

1 Q. Okay. So -- and I realize that the  
2 initial announcement from Amazon and the  
3 opportunity to migrate from 1.0 to 2.0 happened  
4 before you became a part of this team.

5 But is it fair to say that if the 1.0s  
6 didn't jump at that opportunity then, then there  
7 was different requirements looked at or -- or  
8 criteria looked at to determine whether they could  
9 migrate?

10 MS. FITZPATRICK: Objection, form.

11 THE WITNESS: I can only speculate before  
12 my time. I can say that for my time since  
13 January 2019, we haven't migrated a single 1.0 to  
14 2.0.

15 BY MS. NASSIRI:

16 Q. Okay. And -- so that's about a year that  
17 you've been in this position.

18 Has anyone -- has any 1.0 that initially  
19 said no but then changed their mind and wanted to  
20 be considered as a 2.0, have -- have -- have any  
21 come forward since that time?

22 A. I -- I'm -- yes, I'm sure -- yes,  
23 there -- there have been instances where a DSP has  
24 requested through their -- their on-the-road team  
25 to migrate.



1 Q. Okay. And you're saying since you've  
2 been involved since January --

3 A. Since -- since January 2019.

4 Q. You have not approved any such migration.

5 A. Correct. We -- like, we have no -- no  
6 DSP has actually migrated and --

7 Q. I just want to know if anyone asked and  
8 said -- was said no.

9 A. Yeah. Yes. People have asked -- people  
10 have asked. I -- I -- I can't recall specifically  
11 which DSPs.

12 Q. Sure.

13 A. But I -- I know that -- that there have  
14 been requests from -- from specific on-the-road  
15 managers saying, hey, this DSP is asking about  
16 migrating to 2.0. So there are a number of DSPs  
17 that have asked. We haven't really developed a  
18 framework yet, and so the answer is basically we're  
19 not migrating right now because we don't have a  
20 framework to how we want to think about it.

21 Q. Okay. Is that framework being developed?

22 A. Yes.

23 Q. And are you the person who is working on  
24 that framework?

25 A. My team.

1 Q. Okay.

2 MS. NASSIRI: This is going to be  
3 Exhibit 4.

4 (Exhibit 4 was marked for  
5 identification.)

6 BY MS. NASSIRI:

7 Q. It's pretty short. It's a -- it's an  
8 email chain. At the bottom it starts -- it's from  
9 you to Eric Swanson and David Ojeda dated Friday,  
10 October 4th at 9:16 a.m. And the very top email is  
11 from you to David Ojeda and Eric, also on  
12 October 4th at 9:54 a.m.

13 Take a look and tell me if you recognize  
14 this email.

15 A. Yes.

16 Q. Okay. And it -- it looks like you asked  
17 Eric Swanson and David Ojeda, "Do you know the back  
18 story on why Scoobeez never migrated to 2.0?"

19 So just curious why these two individuals  
20 would be who you asked, Eric Swanson and David  
21 Ojeda? Why would you have asked Eric Swanson that  
22 question?

23 A. Well, Eric's who I report to.

24 Q. Okay.

25 A. So that -- that's why I included him.

1 Q. Okay.

2 A. And David was the, I guess, point of  
3 contact, kind of leading the migration effort.

4 Q. Okay. For all stations, not just the  
5 ones he was on the road for?

6 A. In -- in June of 2018, yes.

7 Q. Okay. Okay. And do you know why -- what  
8 triggered you to write this email in October of  
9 2019, so about three months ago?

10 A. I -- I don't recall specifically. I  
11 don't recall specifically.

12 Q. Okay. So Eric responds, "Two issues.  
13 They had the highest route negotiated rate so would  
14 have taken a 5 percent" -- I -- I don't know what  
15 that means but I assume a "5 percent haircut to  
16 move to 2.0."

17 So let's talk about that first. What  
18 does that mean, "highest route negotiated rate so  
19 would have taken a 5 percent haircut"?

20 A. The way I interpreted that statement --

21 Q. Sure.

22 A. -- was basically what Eric believed was  
23 the factor was that if Scoobeez migrated, they  
24 would be paid less for their work than they had  
25 individually negotiated in the 1.0.

1 Q. Okay. And then it says, "They"  
2 own/lease -- "own/lease a lot of their vehicles and  
3 conversion to Armada was a nonstarter."

4 So what does that mean?

5 A. My interpretation --

6 Q. Sure. I know you didn't write that.

7 A. Yeah, yeah. My interpretation of what he  
8 meant was that they had already signed like a lease  
9 with another provider --

10 Q. Okay.

11 A. -- so that if they were to -- to go to  
12 the 2.0, the value of -- of having the option to  
13 sign a lease with Armada wasn't -- wasn't any value  
14 because they already had a lease signed.

15 Q. So what's Armada?

16 A. Armada is what we refer to as our -- our  
17 lease program that we offer to -- to -- to DSPs.

18 Q. 2.0s?

19 A. Correct.

20 Q. Okay. Was that -- was that lease program  
21 also in place for the 1.0s?

22 A. Armada is like a brand.

23 Q. Okay.

24 A. The actual company we -- we partner with,  
25 like I guess in theory any company could partner

1 with --

2 Q. Okay.

3 A. -- but the actual program that we  
4 negotiated with on the Armada program was  
5 specifically for 2.0s.

6 Q. So Armada, is that a brand of car, a  
7 brand of van or truck?

8 A. It's -- it's a brand of program.

9 Q. Oh.

10 A. It's just how we -- it's -- we can call  
11 it the Armada program.

12 Q. Okay.

13 A. It's kind of like a code name basically.

14 Q. Okay. Is Armada -- does Amazon own the  
15 Armada brand?

16 A. No.

17 Q. Okay. And so am I understanding this  
18 correctly that Amazon Logistics negotiates certain  
19 lease rates for the vans or trucks for the DSPs to  
20 use?

21 A. Yes. But one -- one of the, I guess,  
22 benefits --

23 Q. Sure.

24 A. -- of the 2.0 program is that we go out  
25 and -- and we negotiate certain rates with

1 value-added service providers. In this specific  
2 case, the Armada program that we negotiated  
3 specifically are vehicle leases --

4 Q. Yeah.

5 A. -- is an example of that.

6 Q. Okay. But why would it matter to Amazon  
7 that, let's say, Scoobeez had already leased a lot  
8 of their vehicles? And could it -- I understand  
9 that there may be a cheaper rate for Armada for  
10 them to use. But what would be -- what would be  
11 the reason that this would be why they wouldn't  
12 have migrated?

13 A. My interpretation of --

14 Q. Sure.

15 A. -- what he is saying is that if you  
16 already have leases signed, like, the value of  
17 moving to 2.0, like, you don't -- like, you're  
18 not -- it's not helping you negotiate a deal.  
19 You've already made the deal.

20 Q. So when it -- when he -- when says that  
21 was a nonstarter, he means for -- for Scoobeez, not  
22 for Amazon. Meaning Scoobeez would say that's a  
23 nonstarter, we've already gotten our -- our cars,  
24 our -- our trucks. It's not a nonstarter for  
25 Amazon to agree to make them a 2.0?

1 A. That is how I interpreted it.

2 Q. Okay.

3 A. Basically it was a nonstarter for  
4 Scoobeez.

5 Q. Got it. Okay.

6 And then he writes, "The route rate is  
7 99.9 percent of the issue."

8 Again, is it your understanding he's  
9 talking about from Scoobeez' perspective?

10 A. It -- it's my understanding that, yeah,  
11 this entire section of the email is just talking  
12 about Scoobeez' perspective.

13 Q. Okay. So that Scoobeez -- is it your  
14 understanding that -- didn't want to migrate to a  
15 2.0 because they would have had to take a 5 percent  
16 haircut and they wouldn't get the benefit of the  
17 Armada program?

18 A. That is my interpretation --

19 Q. Okay.

20 A. -- when I read this.

21 Q. Okay. Okay. So then in the next part of  
22 the chain, David Ojeda chimes in. He says, "That's  
23 correct for 2018 but in March, April of 2019, there  
24 was an email request of them trying to convert to  
25 2.0 but we did not approve them or any other DSPs

1 commitment tool is just a forecast.

2 Q. Sure.

3 A. So it's -- it's just a planning tool. So  
4 there's -- there's no guarantee or requirement to  
5 run that.

6 Q. Okay.

7 A. So there's going to be DSPs that run more  
8 than what's given in the route commitment tool.  
9 There's going to be DSPs that run less.

10 Q. So this is just testifying that they --  
11 they were -- just ended up being allocated more  
12 routes than the -- that the forecast had  
13 anticipated for them?

14 A. Basic -- basically, yes.

15 Q. But it still -- in this time period,  
16 which would be when the route commitment tool is  
17 launched in September, they were not ramping up,  
18 though, in terms of above their baseline routes?

19 A. Correct, correct. So what was loaded was  
20 baseline. It wasn't -- so what was loaded in the  
21 route commitment tool were baseline routes.

22 Q. But they got more than that.

23 A. Correct. So -- so -- correct.

24 Q. Okay. Okay. So paragraph 7. Why don't  
25 you tell me about this performance metrics for DSPs



1 where it says that "These records are created and  
2 updated at or near the time the performance metrics  
3 are measured and relied upon determining the  
4 identity the of DSP with whom Amazon does  
5 business."

6 So this chart in paragraph 7 talks about  
7 Scoobeez' performance metrics from Week 27 through  
8 the present. And we -- the present would be, I  
9 imagine, the date you signed this, November 11th,  
10 on or about that date.

11 Do you know why Week 27 was chosen?

12 A. That's when we launched our new  
13 performance scorecard.

14 Q. Oh, okay. We will talk about scorecards  
15 later.

16 Okay. So can you just walk me through  
17 just like, say, the first line --

18 A. Sure.

19 Q. -- what DAOU means, and what this is --  
20 what -- what is this communicating, this  
21 performance percentile?

22 MS. FITZPATRICK: Objection to form.

23 THE WITNESS: So DAU1 is -- is a code for  
24 a station.

25 / / /

1 BY MS. NASSIRI:

2 Q. Okay.

3 A. So that's for a specific delivery station  
4 or we -- you referred to it as a hub.

5 Q. Okay.

6 A. The number of DSPs, that's how many DSPs  
7 at this time operated in that DAU1 station.

8 Q. Okay.

9 A. And that over the time period from  
10 Week 27 to the present, Scoobeez was in the --  
11 the -- the top 63 percent of performance of those  
12 DSPs.

13 Q. Okay. So -- and is it 63 -- is it -- is  
14 it a hundred? Is the max someone could get was a  
15 hundred percent? I'm just trying to -- statistics  
16 are a funny thing.

17 MS. FITZPATRICK: Objection to form,  
18 misstates testimony.

19 BY MS. NASSIRI:

20 Q. I'm trying to understand what this means.

21 A. So -- so it means that yes, basically you  
22 want to be -- you -- you want to be in a higher  
23 percentile --

24 Q. Okay.

25 A. -- means -- which mean you performed

1 better.

2 Q. Sure.

3 A. So -- so they're in the 63rd percentile,  
4 basically, of their DSPs, which means that they're  
5 slightly better than average. So average would be  
6 50 --

7 Q. Okay.

8 A. -- percent.

9 Q. Is -- is -- is -- okay.

10 So following week -- or -- or is this  
11 just by station overall for this time period?

12 A. Correct. So the first row is only for  
13 DAU1.

14 Q. And where's DAU1, if you know?

15 A. I believe that's Austin.

16 Q. Okay. And then DCH1, 17 DSPs operate out  
17 of that station, and Scoobeez was the 47th  
18 percentile?

19 A. So slightly below average.

20 Q. Okay. So if we go to the bottom where it  
21 says average -- the bottom of the chart on page 17  
22 of your declaration, average 49.58.

23 So what does this communicate to you  
24 as -- in your -- in your role at Amazon of  
25 Scoobeez' performance for this time period?

1 A. It communicates they're almost virtually  
2 average.

3 Q. Okay.

4 A. So if -- you know, if we use 50 percent  
5 as average, so the total average line is all DSPs.  
6 So if we look at all stations --

7 Q. Not just these stations?

8 A. Yeah. It's the -- sorry. Sorry. It's  
9 the average of the stations that they operate in in  
10 all DSPs.

11 Q. Okay. And you said that these  
12 percentiles come from the scorecards that were  
13 introduced in or around Week 27?

14 A. The -- the percentiles are just the  
15 ranking of the scores from the scorecard.

16 Q. Okay.

17 MS. FITZPATRICK: I -- I'm -- I'm sorry.  
18 Can I ask a clarifying question?

19 MS. NASSIRI: Sure.

20 MS. FITZPATRICK: I'm not sure I'm  
21 following.

22 Are you saying that they -- their  
23 performance was 49 percent or -- or in the case of  
24 this DSX1, it was -- they're were at 39 percent on  
25 their metrics or they performed worse than

1 THE WITNESS: What -- yeah. What --  
2 what -- can you -- when you -- you say opportunity  
3 just --

4 BY MS. NASSIRI:

5 Q. Sure.

6 A. -- I want to make sure I understand what  
7 you mean.

8 Q. So we can look at Exhibit -- the -- the  
9 document your declaration is in.

10 A. Uh-huh.

11 Q. On page 9 of that exhibit --

12 MS. FITZPATRICK: Are you talking about  
13 the brief?

14 BY MS. NASSIRI:

15 Q. I'm talking about the brief. And I  
16 realize you did not write this brief.

17 MS. FITZPATRICK: It's a legal document.

18 BY MS. NASSIRI:

19 Q. Yeah, and there's -- it's a legal  
20 document.

21 MS. FITZPATRICK: It's prepared by  
22 counsel.

23 MS. NASSIRI: I understand.

24 BY MS. NASSIRI:

25 Q. But your counsel represents on line 10

1 that there are -- because Amazon is prevented by  
2 the automatic stay from terminating the agreement,  
3 there are lost opportunity costs on Amazon. And I  
4 just want to understand, if you know, what those  
5 lost opportunity costs are.

6 MS. FITZPATRICK: So take your time and  
7 read the context of the statement that it is  
8 written in.

9 BY MS. NASSIRI:

10 Q. Sure. And I -- again, I know you didn't  
11 write that.

12 A. Okay. Could you just ask the question  
13 one more time to make sure I understand.

14 Q. Sure. Has Amazon lost opportunities by  
15 maintaining Scoobeez in the system as a DSP?

16 A. Well, the first thing I would say is that  
17 they -- they -- you know, by the fact of being  
18 involved in multiple litigations and the -- and the  
19 determination of why we wanted to terminate them  
20 along with the other 14 DSPs to begin with,  
21 there -- there is, you know, risk associated with  
22 that --

23 Q. Sure.

24 A. -- right? So I would define opportunity  
25 of having to continue to be dealing with that risk

1 of -- of a DSP you are not working with multiple  
2 litigations.

3 Q. Okay.

4 A. That would be one example.

5 Q. Okay.

6 A. Another example of an opportunity costs  
7 would be, you know, we from a capacity, planned  
8 to -- to -- you know, to not have them in our  
9 network. And so we planned and recruited to have  
10 other DSPs in the stations, that because Scoobeez  
11 is still there, we're hindering their ability to  
12 grow and scale their businesses. So that could be  
13 another opportunity cost.

14 Q. But -- but Amazon -- or, sorry, Scoobeez  
15 is still in those stations --

16 MS. FITZPATRICK: Not sure --

17 BY MS. NASSIRI:

18 Q. -- driving those routes that you had  
19 slotted other DSPs to jump in and take over?

20 A. That could potentially have been done.

21 Q. Okay.

22 A. That -- that would be another potential  
23 example.

24 MS. FITZPATRICK: I'm not sure if he  
25 finished his answer about --

1 MS. NASSIRI: Okay. Go ahead.

2 MS. FITZPATRICK: -- opportunity costs,  
3 if this were others.

4 THE WITNESS: There's -- there's -- those  
5 are two examples that are coming to mind right now.

6 BY MS. NASSIRI:

7 Q. If you think of any others while we're  
8 talking, you can let me know.

9 A. Sure.

10 Q. Can you assign a dollar amount to those  
11 lost opportunity costs?

12 MS. FITZPATRICK: Objection, calls for a  
13 legal conclusion.

14 THE WITNESS: I -- I would -- I would be  
15 speculating.

16 BY MS. NASSIRI:

17 Q. Okay. So just so I'm clear, and we can  
18 kind of cut to the chase, the -- the reason why  
19 Scoobeez is on -- was on the list that was created  
20 on or about August 9th was because of the multiple  
21 litigations and not because of performance; is that  
22 right?

23 A. Correct.

24 Q. Okay. What about compliance? Was  
25 compliance a basis for Scoobeez to be on a list for



1 termination?

2 A. For Scoobeez specifically?

3 Q. Yes.

4 A. No.

5 Q. In August of 2009 --

6 MS. FITZPATRICK: August of 2009?

7 BY MS. NASSIRI:

8 Q. I'm sorry, '19. August of 2019, was  
9 there a plan to communicate to those 15 DSPs that  
10 were on the list that they would be slotted for  
11 termination?

12 A. Yes.

13 Q. Okay. And what was that?

14 A. What was the plan?

15 Q. Yes.

16 A. It was, I would say, multifaceted.

17 Q. Okay.

18 A. The 2.0 agreement -- one provision of the  
19 2.0 agreement is there's the concept of a renewal.

20 Q. Okay.

21 A. And so once a year, we can choose not to  
22 renew a 2.0 agreement of any reason -- for any  
23 reason.

24 Q. Okay.

25 A. And --

1 wage-an-hour litigations wouldn't be cause under  
2 the 2.0 agreement for termination?

3 A. No. Just -- just I think mainly because  
4 it's cleaner to communicate a nonrenewal than to  
5 terminate.

6 Q. Okay.

7 A. So I just think it's cleaner.

8 And so that was the first bucket we  
9 focused on. And then there are many buckets for  
10 1.0s that we could terminate at any time.

11 Q. Okay. Have all the 1.0s on that list  
12 been terminated other than Scoobeez?

13 A. They have been communicated -- the  
14 decision to communicate -- to terminate them.

15 Q. Okay. In August of -- or do you know  
16 when Scoobeez first learned that it was on the list  
17 to be terminated by Amazon?

18 MS. FITZPATRICK: Objection, calls for  
19 speculation.

20 THE WITNESS: I -- I can assume when it  
21 would be. My assumption would be when we called  
22 them on October 7th and told them.

23 BY MS. NASSIRI:

24 Q. Okay. Do you know why the gap between  
25 August and October?

1 A. Mainly what I referred to before was that  
2 we were focused on -- we were focused on the  
3 nonrenewals to begin with, and there was no time  
4 urgency --

5 Q. Okay.

6 A. -- to communicate a decision to a 1.0.

7 Q. Okay. Was the fact that Scoobeez is in  
8 bankruptcy, that -- was the fact that Scoobeez was  
9 in bankruptcy a determining factor as to when you  
10 would communicate with them about their  
11 termination?

12 A. I'm going to -- I'm going to slightly  
13 rephrase that question.

14 Q. Sure.

15 A. And we were counseled -- basically --

16 Q. Don't -- yeah, I don't I want to hear  
17 anything your counsel told you.

18 A. Got it.

19 Q. But just a yes or no.

20 Was the -- the fact that Scoobeez was in  
21 bankruptcy, did that impact the timing of when you  
22 were going to communicate to Scoobeez that they  
23 were on list to be terminated?

24 MS. FITZPATRICK: Objection to form.

25 You can answer if you understand the

1 was. And I -- I think Mr. Wilson's testified  
2 repeatedly today that the reason for termination  
3 had to do with the number of litigations.

4 MS. NASSIRI: Yes. Okay.

5 BY MS. NASSIRI:

6 Q. Do you know the amount of costs that  
7 Amazon has incurred because of the -- the Scoobeez  
8 multiple litigations?

9 A. I do not know.

10 Q. Do you know who would know that?

11 A. I would be speculating.

12 Q. Who would you speculate would know that  
13 answer?

14 A. Legal counsel.

15 Q. Okay. With respect to the three wage an  
16 hour or employment -- or employment-related  
17 actions, which I'll represent to you one of them  
18 has been dismissed, so there is two remaining, but  
19 with respect to the three that -- that were  
20 referenced in the proofs of claim, do you have --  
21 do you know whether Amazon's reputation has been  
22 harmed because of these actions?

23 MS. FITZPATRICK: Objection; vague, calls  
24 for speculation.

25 THE WITNESS: Can you -- can you ask that

1 question -- so do I -- do I know --

2 BY MS. NASSIRI:

3 Q. Has Amazon's reputation been harmed  
4 because Scoobeez is involved in these wage an  
5 hour/employment-related actions?

6 MS. FITZPATRICK: Same objections.

7 THE WITNESS: I -- I -- I would be  
8 speculating. In general, our position is what I  
9 have shared before on -- on litigation and -- and  
10 the costs of that and the risks of that.

11 BY MS. NASSIRI:

12 Q. Okay. So I -- I just want to make sure  
13 we have this clear.

14 The reason the multiple litigations --  
15 well, let's go back.

16 If there was just one wage an hour action  
17 or employment action against a DSP, would that put  
18 them on the -- a list for termination?

19 A. Through the framework we did on August 9?

20 Q. Yes.

21 A. No.

22 Q. Okay. So is there a -- what's the --  
23 would two be sufficient to put them on the list  
24 based on your August 9th framework?

25 A. Yes.

1 hypothetical, misstates testimony, lacks  
2 foundation, vague.

3 THE WITNESS: I don't -- I'm not totally  
4 understanding the question.

5 BY MS. NASSIRI:

6 Q. So I'm just saying if -- if -- if --  
7 let's put the litigations aside.

8 If we put the litigations aside, based on  
9 everything you've testified today, they would not  
10 have been on your August 9th exit termination list?

11 A. So if -- if Scoobeez had never been  
12 involved in multiple litigations --

13 Q. Yes.

14 A. -- they would not have been slated for  
15 exit on the August 9th decision. I -- I agree with  
16 that.

17 Q. Okay.

18 A. Correct.

19 Q. And at that time, on August 9th, there  
20 were no other termination lists that we discussed  
21 here today that Scoobeez was on?

22 A. The -- the -- the framework we used  
23 evolved over time.

24 Q. I understand.

25 A. Scoobeez pretty much popped on every

REPORTER'S DECLARATION

STATE OF NEVADA)

COUNTY OF CLARK)

I, Lisa Makowski, CCR No. 345, declare as follows:

That I reported the taking of the deposition of the witness, JAMES WILSON, commencing on Tuesday, January 28, 2020, at the hour of 10:09 a.m.

That prior to being examined, the witness was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth; that, before the proceedings' completion, the reading and signing of the deposition has been requested by the deponent or a party.

That I thereafter transcribed said shorthand notes into typewriting and that the typewritten transcript of said deposition is a complete, true and accurate transcription of said shorthand notes taken down at said time.

I further declare that I am not a relative or employee of any party involved in said action, nor a person financially interested in the action.

Dated at Las Vegas, Nevada this 7th day of February, 2020.

A handwritten signature in cursive script, appearing to read "Lisa Makowski", written over a horizontal line.

Lisa Makowski, CCR 345